

LEGISLATIVE BILL 285

Approved by the Governor May 30, 2003

Introduced by Landis, 46

AN ACT relating to sales and use taxes; to amend section 17, Legislative Bill 759, Ninety-eighth Legislature, First Session, 2003; to redefine a term; to provide an operative date; and to repeal the original section.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 17, Legislative Bill 759, Ninety-eighth Legislature, First Session, 2003, is amended to read:

Sec. 17. (1) Sales and use taxes shall not be imposed on the labor of a contractor purchased in connection with:

- (a) The first or original construction of a structure;
- (b) The addition of an entire room or floor to any existing building;
- (c) The completion of an unfinished portion of an existing structure;
- (d) The restoration, reconstruction, or replacement of a structure damaged or destroyed by fire, flood, tornado, lightning, explosion, ice storm, or other natural disaster;
- (e) The construction, repair, or annexation of any structure used for the generation, transmission, or distribution of electricity; or
- (f) The major renovation of an existing building or a unit of an existing building described in subdivision (2)(e)(ii) of this section. The exemption granted in this subdivision shall be conditioned upon notice from the contractor to the Department of Revenue of the nature of the project and an explanation of why the renovation will qualify for the exemption.

(2) For purposes of this section:

- (a) Building means any freestanding structure annexed to land, enclosed within a roof and exterior walls, regardless of whether enclosed on all sides;
- (b) Building materials means items that will be annexed to land or an improvement on land. Building materials do not include tools, supplies, or items that will not be annexed;
- (c) Contractor means any person who repairs property annexed to or who annexes property to real estate, including leased property, by attaching ~~such person's own~~ building materials to the improvement or annexed property being built or repaired. This includes the installation of fixtures and the repair of a building, structure, or fixture;
- (d) Fixture means a piece of equipment that must be annexed to the building or structure in order to properly function, yet remains identifiable as a separate item;
- (e) Major renovation of an existing building or a unit of an existing building means a single renovation project that:
 - (i) Increases the market value of the building or unit by at least one hundred percent; or
 - (ii) Entails the renovation of no less than seventy-five percent of the square feet of the building or unit;
- (f) Renovation means the rehabilitation, replacement, or reconfiguration of walls or fixtures. Mere replacement of floor coverings does not constitute renovation for purposes of subdivision (1)(f) of this section;
- (g) Structure means any construction composed of parts arranged and fitted together in some way. Structure includes, but is not limited to, streets and roadways, street lighting, and sewers and waterlines; and
- (h) Unit means a physical portion of a building designated for separate ownership, rental, or occupancy.

(3) A taxpayer shall be entitled to a refund of any sales tax paid on construction, annexation, or repair labor for any major renovation described in subdivision (2)(e)(i) of this section. The refund granted in this section shall be conditioned upon filing a claim for the refund on a form developed by the Tax Commissioner. The requirements imposed by the Tax Commissioner shall be related to ensuring that the labor purchased qualifies for the refund. Any information received pursuant to the requirements of this subsection may be disclosed to any tax official in this state. Any taxpayer who provides false information on the forms required by the Tax Commissioner for purposes of this subsection shall be subject to the penalties provided in

subsection (8) of section 77-2705.

Sec. 2. This act becomes operative on October 1, 2003.

Sec. 3. Original section 17, Legislative Bill 759, Ninety-eighth Legislature, First Session, 2003, is repealed.